

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLIFFORD ALAN DILBERT,

Plaintiff,

v.

CDCR and R. FISHER, *Warden*,

Defendants.

No. 1:20-cv-00655-NONE-HBK

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 10 & 12)

Plaintiff Clifford Alan Dilbert initiated this action as a prisoner proceeding *pro se* by filing a civil rights complaint under 42 U.S.C. § 1983 on May 11, 2020. (Doc. No. 1.) On July 1, 2021, plaintiff filed a motion for a temporary restraining order enjoining defendants from transferring him from Valley State Prison until a judgment is entered in this case. (Doc. No. 10.) The matter was referred to the assigned magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 7, 2021, the magistrate judge issued findings and recommendations recommending that plaintiff's motion for a temporary restraining order be denied. (Doc. No. 12.) The findings and recommendations were served on plaintiff and contained notice that objections were due within twenty-one days of receipt of the order. (*Id.* at 1, 5.) Plaintiff was later granted an additional thirty days to object. (Doc. Nos. 13–14.) Plaintiff's objections were filed on September 15, 2021. (Doc. No. 15.)

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
2 *de novo* review of this case, including plaintiff's objections.

3 Plaintiff objects on the grounds that a transfer is risky for him due to the ongoing
4 coronavirus pandemic. (Doc. No. 15 at 4–9.) However, plaintiff does not indicate why the
5 transferred location is a greater risk to him. Indeed, he states in his affidavit that his current
6 institution of confinement has experienced coronavirus outbreaks. (*Id.* at 25.) Moreover, plaintiff
7 does not adequately contest the magistrate judge's reasoning concerning the speculative nature of
8 a potential transfer. Indeed, plaintiff asserts in his declaration that in a previous state-court
9 action, CDCR officials represented that they would keep plaintiff at his current institution of
10 confinement. (*Id.* at 22–23.)

11 Having carefully reviewed the entire file, the court finds the findings and
12 recommendations to be supported by the record and by proper analysis.

13 Accordingly,

- 14 1. The findings and recommendations entered on July 7, 2021 (Doc. No. 12) are adopted
15 in full;
- 16 2. Plaintiff's motion for a temporary restraining order is denied (Doc. No. 10); and
- 17 3. This case is referred to the magistrate judge for further proceedings.

18 IT IS SO ORDERED.

19 Dated: October 1, 2021

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UNITED STATES DISTRICT JUDGE